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Applicants hereby authorize the Commissioner to charge Deposit Account 19-3550 for any additional fees resulting from this amendment.

REMARKS

Applicants urge reconsideration of the subject U.S. patent application in view of the preceding amendments and the following remarks.

Amendment to Claims

Applicants have amended Claims 1 and 9 to require that the containers are generally cylindrical and that the applicating machine include a drum with a plurality of jaw pairs, a transverse distance between the jaw pairs in a closed position adjustable around a circumference of the drum through an adjustable hub of the drum. Such amendment is supported in the Specification in the drawings and at pages 14 and 15 which describe that the operation of the drum 40. Applicants have additionally added Claim 19 describing a method for applying a carrier to containers. Applicants have additionally added new dependent Claims 20-23. Such newly added claims are supported in the Specification, particularly at pages 8-11, 14 and 15 and the drawings. Applicants urge that such amendments and new claims add no new matter to the subject U.S. patent application.

Claim Rejections

35 U.S.C. §103

The Krogman et al. Patent in View of the Fisher Patent

The Examiner has rejected Claims 1-13 under 35 U.S.C. §103 as being unpatentable over Krogman et al., U.S. Patent 5,383,321, in view of Fisher, U.S. Patent 3,044,230. The Examiner alleges that the Krogman et al. Patent teaches the features of Claim 1 with the exception of a maximum diameter of each container having a second length shorter than the first length spaced apart from an adjacent container by the applying machine at the first length. The Examiner additionally admits that the Krogman et al. Patent does not teach positioning the carrier over the plurality of containers to form a package having a container pitch between a center of adjacent containers approximately equal to the second length which is smaller than a carrier pitch having a first length. The Examiner alleges that the Fisher Patent teaches a carrier having a second length shorter than a first length by comparing Figs. 2 and 4 of the Fisher Patent. The Examiner further alleges that a comparison of Figs. 2 and 4 of the Fisher Patent, regardless of scale, results in a conclusion that the second length is shorter than the first length.

Applicants have amended Claims 1 and 9 to require an applying machine having a drum with a plurality of jaw pairs wherein a transverse distance between the jaw pairs in a closed position is adjustable around a circumference of the drum through an adjustable hub of the drum. Applicants urge that the cited art

does not teach or suggest an applying machine having a plurality of jaw pairs wherein a distance between the jaw pairs is adjustable around a circumference of the drum through an adjustable hub of the drum.

Applicants have further amended Claims 1 and 9 to require generally cylindrical containers. The Examiner contends that a rectangular container wider in a transverse direction would inherently require an elongated aperture having a second length shorter than the first length due to stretching in the transverse direction. Rectangular containers would likely not function with a container carrier having such a configuration and, as such, Applicants have limited the claimed invention to generally cylindrical containers such as cans and bottles.

Applicants previously attached the declaration of William Weaver stating that the industry standard is that the second length is longer than, or at least equal to, the first length. In addition, the Declaration states that the Fisher Patent does not demonstrate a first length longer than the second length. The cited art and the industry standards neither teach or suggest a carrier having a pitch of a first length which is longer than a container pitch having a second length following application of the carrier to the containers, particularly a difference of 10%.

Applicants urge that the cited prior art, alone or in combination, does not teach: (1) a carrier having a pitch of a first length which is longer than a container pitch having a second length following application of the carrier to a

plurality of generally cylindrical containers wherein the difference is approximately 10%; and (2) the applying machine including a drum with a plurality of jaw pairs, a transverse distance between the jaw pairs in a closed position adjustable around a circumference of the drum through an adjustable hub of the drum. Applicants urge that the claimed invention is not obvious in view of the cited art.

In addition, Applicants urge that the cited prior art, alone or in combination, does not teach a system having a fixed longitudinal pitch between a center of each adjacent elongated aperture in a carrier independent of a diameter size of the containers so that a single applying machine is adapted for use in connection with both small diameter containers and large diameter containers as required in Applicants' newly added Claims 19-23. The Krogman Patent and the Fisher Patent do not teach or suggest using a carrier having a fixed longitudinal pitch for different container sizes so that for small diameter containers the elongated apertures are narrower relative to the fixed longitudinal pitch than the elongated apertures for large diameter containers. Nor do such references teach or suggest moving a plurality of containers through the applying machine wherein the transverse distance between jaw pairs in the closed position is narrower for the small diameter containers than the transverse distance between jaw pairs for the large diameter containers. Such an arrangement permits a single applying

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machine for use in connection with both small diameter containers and large diameter containers. Applicants urge that the claimed invention is not obvious in view of the cited art.

Request for Telephone Interview

Should the subject Amendment not result in allowance of the pending claims or should the Examiner require any further clarification and/or amendment, Applicants respectfully request that the Examiner contact the undersigned at 847.490.1400 for a telephone interview.

Conclusion

In view of the above Amendment and remarks, Applicants sincerely believe that Claims 1-13 and 19-23 of this patent application are now in condition for allowance and early allowance is respectfully requested. Applicants urge the Examiner to contact the undersigned should any issue require further consideration.

Respectfully submitted,



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